

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



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27 to 29 August 2013*



The *House in Review* provides regular updates of the activities of the New South Wales Legislative Council. Clicking on a hyperlink will take you to the relevant webpage. For further information refer to the NSW Parliament website www.parliament.nsw.gov.au or contact the Procedure Office on (02) 9230 2431. To be placed on the email distribution list of the *House in Review*, please contact us on council@parliament.nsw.gov.au.

Overview

This was the second sitting week after the winter long adjournment. During the week, the House passed four Government bills, debated a fifth and agreed to two orders for papers.

On Monday next week there will be a special edition of *House in Review* reporting on the initial round of hearings regarding the 2013-2014 Budget Estimates.

New member's first speech

On Wednesday 28 August 2013, during debate on the Aboriginal Land Rights Amendment Bill 2013, Mr Wong gave his inaugural speech in the House.

The President acknowledged the presence in his gallery of the family of Mr Wong, and Consul Wang Yun and Consul Wang Hao from the Consulate-General of the People's Republic of China in Sydney.

Government business

Note: Government business includes Government bills introduced or carried by ministers in the Council.

Marine Parks Amendment (Moratorium) Bill 2013

The bill originated in the Legislative Assembly.

Summary: The *Marine Parks Act 1997* currently imposes a moratorium on the creation of new marine parks and the alteration or creation of sanctuary zones within existing marine parks. The moratorium was imposed for a period of 5 years on the commencement of the *Marine Parks Amendment (Moratorium) Act 2011*. During the moratorium period, the Marine Parks Authority must not conduct a review of a zoning plan for a marine park.

The bill amends the *Marine Parks Act 1997* to allow regulations to be made within the moratorium period to alter the areas of existing sanctuary zones, or to classify areas as new sanctuary zones, to provide for reviews of zoning plans at the direction of the relevant Ministers and to allow the Authority to conduct reviews of, or take other action in relation to, zoning plans.

Proceedings: Debate on the second reading of the bill resumed on 27 August 2013 from 21 August 2013 (see the previous edition of *House in Review* for earlier debate). The Opposition and the Greens continued to voice their opposition to the bill, arguing that the Government had a poor record with respect to environmental protection and that the recent Independent Scientific Audit of Marine Parks indicated that current sanctuary zones should be preserved and enlarged. The Greens foreshadowed that they would seek to amend the bill in the committee stage to ensure that current sanctuary zones could not be reduced during the moratorium.

Debate was interrupted for Questions, and resumed the following day.

Members of the Government spoke in support of the bill, stating that the bill will allow the Government to commence a review of the structure and management of marine parks, as recommended by the Scientific Audit. The Christian Democratic Party and the Shooters and Fishers Party both supported the bill, agreeing that there was a need to improve the current management model for marine parks.

The second reading was agreed to (Division 19:16), with the Christian Democratic Party and the Shooters and Fishers Party voting with the Government, and the Opposition and the Greens voting against the second reading.

In the committee stage the Greens moved an amendment that would prevent any change to a marine park sanctuary zone during the moratorium period other than an increase in size. Notwithstanding its argument that the Government had introduced the bill with the singular purpose of reducing the size of current sanctuary zones the Opposition did not support the amendment. The Opposition argued that it was wrong in principle to constrain any decisions regarding the size or location of sanctuary zones while reiterating that any such decisions must be based on scientific evidence and appropriate assessment. The amendment was negatived (Division 30:5).

The bill was reported to the House without amendment, read a third time and returned to the Assembly.

Totalizator Amendment (Exclusivity) Bill 2013

The bill originated in the Legislative Assembly.

Summary: The bill amends the *Totalizator Act 1997* to enable the Minister administering the Act to accept the offer made by TAB Limited to enter into the deed entitled 'NSW Exclusivity Deed'. The NSW Exclusivity Deed was tabled in the Legislative Assembly on 15 August 2013 by the Minister for Tourism, Major Events, Hospitality and Racing. The bill also extends the exclusivity period that applies in relation to the granting of totalisator licences to TAB Limited and racing clubs under the Act for an additional 20-year period if the NSW Exclusivity Deed comes into force. If the deed does come into force, the Crown will be entitled to be paid specified instalments as consideration for the extension of the exclusivity period.

Proceedings: The bill was received from the Legislative Assembly on 27 August and read a first time. The second reading of the bill commenced on 28 August 2013. Prior to commencement of debate, the Minister (Mr Gallacher) tabled the NSW Exclusivity Deed referred to in the bill. The second reading speech of the Minister, which was incorporated into Hansard, stated that the bill gives effect to an in-principle agreement that the Government reached with Tabcorp to extend the TAB's totalizator licence exclusivity for a further 20 years and that this arrangement demonstrates the Government's commitment to supporting the viability of the racing industry, which in turn provides significant social and economic contributions to the State. Tabcorp will pay the Government \$75 million, consisting of an initial payment of \$50 million, and the balance to be paid over ten years from 2024.

The Opposition supported the bill, acknowledging the importance of the bill to the racing industry overall. The Opposition argued that while the price paid by Tabcorp appeared reasonable, the public should be provided with more information to confirm that the State was receiving an appropriate return. The Opposition also raised its concern that the bill was asking the Parliament to retrospectively confirm a deal made by the Government in June 2013. While not opposing the bill, the Christian Democratic Party and the Greens said the bill raised a number of concerns, including whether the Government had negotiated an adequate price for exclusivity rights – with the Christian Democratic Party suggesting the agreement should be assessed by the Auditor-General. The Greens also criticized the practice of entering into exclusivity agreements which bind the actions of future governments.

In reply, the Minister argued that the tabling of the deed to accompany the bill provided the necessary transparency regarding the agreement. The Minister also clarified the limited circumstances in which an adverse regulatory event payment provided for in the agreement would be applicable.

The second and third readings of the bill were agreed to and the bill was returned to the Assembly without amendment.

Road Transport Amendment (Electronic Traffic Infringement Notices Trial) Bill 2013

The bill originated in the Legislative Assembly.

Summary: The bill amends the *Road Transport Act 2013* to establish a trial for the service of penalty notices to email addresses or mobile phone numbers when authorised by the Commissioner of Police and voluntarily provided by the person who has been served the penalty notice.

Proceedings: The bill was received from the Legislative Assembly on 27 August 2013 and read a first time. On 28 August 2013 the Minister (Mr Gallacher) moved the second reading of the bill and incorporated the majority of his speech in Hansard. The speech stated that the bill initiates a four week trial by the NSW Police Force of electronic traffic infringement notices (TINs) in five local area commands to determine whether a larger trial followed by an independent evaluation should occur. The initiative aligns with NSW 2021, complements the goals of the Government's ICT Strategy and is the first foray for the NSW Police Force into ways to support and promote both the State and Commonwealth Governments' commitment to using cloud technology.

The Opposition and the Greens supported the bill, commending its aim of reducing police red tape and costs. However, the Opposition asked the Minister to clarify the figure of \$1.2 million which is the calculated amount the scheme will save the NSW Police Force, while the Greens asked the Minister to address the concern that an officer may incorrectly input an email address or phone number or the recipient may miss the emailed or texted notice or disregard it as spam.

In reply, the Minister indicated that the \$1.2 million is based on the labour cost of the number of hours each year police officers spend processing traffic infringement notices. The Minister also put the view that a person who volunteers to be served a penalty notice electronically would be alert to its impending receipt.

The second and third readings of the bill were agreed to and the bill was returned to the Assembly without amendment.

Protection of the Environment Operations Amendment (Illegal Waste Disposal) Bill 2013

The bill originated in the Legislative Assembly.

Summary: The bill amends the *Protection of the Environment Operations Act 1997* to provide additional powers to the Environment Protection Authority and to increase sentencing and penalty provisions to prevent illegal waste disposal.

Proceedings: Debate on the second reading of the bill commenced on 28 August 2013 with the Parliamentary Secretary (Ms Ficarra) incorporating her speech into Hansard. The speech indicated that in the waste disposal industry where the monetary incentive to break the law often outweighs the existing penalties, the bill provides a range of strengthened and expanded penalties and sentencing options to seriously deter unscrupulous operators from continuing to commit illegal waste activities.

The Opposition and the Greens supported the bill, agreeing that it is important to send a strong message to the community that the serial dumping of waste, including asbestos, will be met by strong action by the State and by the courts. The Opposition noted that the bill is a direct response to community disquiet following the lenient punishment in a specific case heard this year by the Land and Environment Court where an offender received a three months suspended sentence after dumping 80 tonnes of waste, including asbestos, at Picnic Point.

The Opposition and the Greens raised concern that a key element of the legislative scheme – that operators of recycling facilities will incur a levy liability – is to be enacted via regulation rather than being provided for in the bill. However, both parties indicated that they had been provided with a copy of a draft regulation of which they generally approved.

The second and third readings of the bill were agreed to and the bill was returned to the Assembly without amendment.

Aboriginal Land Rights Amendment Bill 2013

The bill originated in the Legislative Assembly.

Summary: The bill amends the *Aboriginal Land Rights Act 1983* to clarify which functions of a Local Aboriginal Land Council (LALC) may be exercised by the Board of the LALC; alters the requirements in relation to the advertising of staff vacancies for LALCs; clarifies the provisions relating to the disqualification of a person to hold the office of a member of a LALC; and changes the basis on which community development levies payable in relation to transactions of LALCs are calculated.

Proceedings: Debate on the second reading of the bill commenced on 28 August 2013. In her second reading speech, the Parliamentary Secretary (Mrs Pavay) stated that in December 2011 the Minister for Aboriginal Affairs commenced a five yearly statutory review of the *Aboriginal Land Rights Act* to determine whether the policy objectives of the Act remain valid. The bill represents the initial outcomes of the review with a range of amendments that will enhance the administrative efficiency of the Act, while more ambitious work on how the Act can better deliver outcomes for Aboriginal people in the policy areas of housing, land claims and the regulation of land councils will be introduced in the near future.

The Opposition, the Greens and the Christian Democratic Party supported the bill stating that it stems from a regular legislative review and acknowledged that the bill had received the support of the registrar of land rights in New South Wales and the New South Wales Aboriginal Land Council. The Greens noted that a further bill will be required to give effect to a larger suite of reforms to the Act arising from the working group recommendations and ongoing community consultations.

Debate was adjourned until the next sitting day.

Message from the Assembly

The House received the following message from the Legislative Assembly relating to a bill forwarded to the Assembly by the Council in a previous sitting week.

State Emergency and Rescue Management Amendment (Co-ordination and Notification of Rescues) Bill 2013: On 28 August 2013 the Assembly advised that it had agreed to the bill and returned it to the Council without amendment.

Private members' business

Note: Private members' business is business introduced by members of the House other than Government ministers. There are two types of private members' business: private members' bills and private members' motions.

Bill

Alcoholic Beverages Advertising Prohibition Bill 2012 (Revd Mr Nile, Christian Democratic Party)

The bill originated in the Legislative Council.

Summary: The bill prohibits advertising aimed at promoting the sale of alcoholic beverages, with a view to reducing the incentive for people to consume alcohol. An Alcohol Advertising Prohibition Committee will be established to prepare a timetable for the removal of advertisements promoting alcoholic beverages. The bill also provides for the declaration of local option areas within which the purchase, sale or consumption of alcoholic beverages in a public place is an offence.

Proceedings: Debate on the second reading of the bill resumed on 29 August 2013 (see Vol 55/33 of *House in Review* for earlier debate). The Opposition and the Greens did not support the bill, but in doing so stated that this was an important issue, worthy of debate in the House. They raised concerns about the impacts of the abuse of alcohol in society, but argued that this bill goes too far, as a complete ban on advertising and sponsorship of alcohol is not justifiable at this stage and has the potential to create more harm than good. The Opposition stated that further restrictions on advertising should be done at a national level, not at a State level but that the States should continue to focus on the impacts of alcohol, particularly takeaway alcohol, on domestic violence and violence in the home generally.

Debate was adjourned until the next sitting day.

Motions

National Action Day against bullying and violence (Ms Cusack, Liberal Party)

Summary: The motion calls on the House to note that Friday 15 March 2013 was the National Action Day against bullying and violence and to congratulate those who organised the day and those who registered and participated in the event which included 1,485 schools.

Proceedings: Debate on the motion resumed on 27 August 2013 from 22 August 2013 (see previous edition of *House in Review* for earlier debate). Prior to the commencement

of the resumed debate, the House, on the motion of Ms Cusack, agreed to extend the remaining debate time by one hour to ensure that all Members who wished to contribute to the debate had the opportunity to do so.

Members from both sides of the House continued to speak in support of the motion, noting, among other things, the sometimes extreme and tragic consequences of bullying, and the importance of community awareness programs and initiatives, particularly those that support specific groups who because of their difference are often targets of bullying.

The motion was agreed to.

Australian weather (Ms Voltz, Australian Labor Party)

Summary: The motion calls on the House to note that the Australian Bureau of Meteorology reported that January 2013 was Australia's hottest month on record and that a number of other maximum temperature records were set during the 2012-13 summer; and that Australia and the globe are experiencing rapid climate change. The motion also calls on the House to acknowledge comments made in 2009 by the federal Opposition leader regarding a carbon tax and to congratulate the federal Government for establishing a carbon price and note that emissions reductions will be achieved without having an impact on the strength of the economy.

Proceedings: Debate on the motion resumed on 29 August 2013 from 27 June 2013 (see Vol 55/51 of *House in Review* for earlier debate). Prior to the commencement of the resumed debate, the House, on the motion of Ms Voltz, agreed to extend the remaining debate time by one hour and a half to ensure that all members who wished to contribute to the debate had the opportunity to do so.

Government members continued to state their strong opposition to the motion, particularly their opposition to the Federal Government's carbon tax. Members of the Opposition and the Greens reiterated their support of the motion arguing that scientific evidence overwhelmingly indicates that the world is experiencing climate change as a result of human activity. The Greens foreshadowed an amendment to the motion to call on the Government to outline extreme weather contingency and continuity plans for critical community and social services.

Debate was adjourned until the next sitting day.

Motions taken as formal business

The following items of private members' business were agreed to as formal business without amendment or debate:

- (1) St John (NSW) Investiture 2013 (Mrs Maclaren-Jones)
- (2) Centenary of Our Lady of the Sacred Heart College, Kensington (Ms Ficarra)
- (3) Sydney Intercultural Film Festival (Ms Ficarra)
- (4) Select Committee on Greyhound Racing in NSW (Dr Kaye)
- (5) Poss-ABLE IDEAS Expo (Mrs Maclaren-Jones)

- (6) Red Shield Appeal (Mrs Maclaren-Jones)
- (7) GIO National Wheelchair Rugby Championship (Ms Ficarra)
- (8) American Australian Association Benefit Dinner (Ms Ficarra)
- (9) 68th anniversary of Kapooka tragedy (Mr Lynn)
- (10) 'Securing Our Veterans' Future' project (Ms Ficarra)
- (11) Australian Rugby development centre (Ms Ficarra)
- (12) 'The Boy Colonel' book launch (Mr Lynn).

Orders for papers

Note: The Council has a common law power to order the Government to produce State papers.

Orders made

- (1) **Yaralla Estate—Further Order (Mr Borsak):** Standing orders were suspended to bring the item on. The motion to order the papers was agreed to without debate. Due: Thursday 12 September 2013.
- (2) **Department of Family and Community Services caseworker numbers (Mr Foley):** Standing orders were suspended to bring the item on. Mr Foley, by leave, amended the substantive motion and it was subsequently agreed to without debate. Due: Thursday 19 September 2013.

Petition received

Electricity privatisation – 192 signatures (presented Dr Kaye).

Debate on budget estimates

On 27 August 2013, the House continued the take-note debate on the Budget Estimates and related papers for the financial year 2013-2014.

Committee activities

Note: Committee activities includes committee references, reports tabled, debate on committee reports, government responses received and any other significant committee activity in the House. Committee activity as part of a current inquiry is summarised in the following section entitled 'Inquiry activities'.

Committee reference

Select Committee on greyhound racing in New South Wales: The House established a Select Committee to inquire into greyhound racing in New South Wales.

Committee membership

Select Committee on ministerial propriety in New South Wales: The membership of the committee is: Mr Borsak (Chair), Mr Foley (Deputy Chair), Dr Kaye, Mr Khan, Mr Mason-Cox, Mr Searle.

Committee report tabled

Legislation Review Committee: 'Legislation Review Digest No. 42/55 of 2013', dated 27 August 2013.

Committee reports debated

Joint Standing Committee on Electoral Matters: The House continued the take-note debate on Report No. 3/55 entitled 'Review of the Parliamentary Electorates and Elections Act 1912 and the Election Funding, Expenditure and Disclosures Act 1981', dated May 2013.

General Purpose Standing Committee No. 5: The House concluded the take-note debate on Report No. 37 entitled 'Management of public land in New South Wales', dated May 2013.

General Purpose Standing Committee No. 4: The House continued the take-note debate on Report No. 27 entitled 'The use of cannabis for medical purposes', dated May 2013.

Select Committee on the closure or downsizing of Corrective Services NSW facilities: The House concluded the take-note debate on the report of the Committee entitled 'Closure or downsizing of Corrective Services NSW facilities', dated June 2013.

Inquiry activities

The 2009 Mt Penny return to order

The Privileges Committee held a fourth hearing on Monday 26 August 2013 as part of its inquiry into the 2009 Mt Penny return to order.

Racial vilification law in NSW

The Standing Committee on Law and Justice has deferred consideration of its draft report.

Strategies to reduce alcohol abuse among young people

The Standing Committee on Social Issues has received 52 submissions concerning strategies to reduce alcohol abuse among young people. The Committee has held three public hearings, and is scheduled to conduct a site visit to Byron Bay in October.

Tourism in local communities

General Purpose Standing Committee No. 3 has received 79 submissions regarding tourism in local communities and has held two public hearings. The Committee is scheduled to hold another hearing in Sydney on September 13, and will be conducting site visits to Ballina and Dubbo in October and Jindabyne in November.

Agistment of horses at Yaralla Estate

The Select Committee has received 54 submissions and held two public hearings. The Committee also conducted a site visit to Yaralla Estate and held a public forum at the Concord RSL Club, which was attended by over 120 people. The final report is now being drafted.

Allegations of bullying at WorkCover

This inquiry was referred by the Legislative Council to General Purpose Standing Committee No. 1 on 27 June 2013. Submissions closed last week and hearings will take place in November. The Committee expects to report in early 2014.

Adjournment debate

Tuesday 27 August 2013

Computer games classification review (Mr Donnelly); Great Irish famine commemoration (Mr Blair); Broader Western Sydney Employment Area (Dr Faruqi); World military history (Mr Secord); Farming Futures project (Mr MacDonald); Australian war veterans memorials (Mr Lynn).

Wednesday 28 August 2013

Just terms compensation legislation review (Miss Gardiner); International treaties (Mr Primrose); Forestry Corporation (Mr Shoebridge); Father Chris Riley's Youth Off The Streets (Ms Cusack); Hindu Holy Book: Bhagavad-Gita (Mr Moselmane); Forestry Corporation (Ms Barham); Fiftieth anniversary of Martin Luther King speech (Dr Phelps).

Thursday 29 August 2013

Lake Saint Clair Luxury Hotel (Mr Brown); Vietnam Veterans Day (Mr Khan); Cleaning industry (Ms Westwood); Coptic Christian protest (Revd Mr Nile); Cyprus Study Tour by NSW Parliamentary Friends of Cyprus (Ms Fazio); Coptic Egyptians (Ms Ficarra).

Feedback on *House in Review*

We welcome any comments you might have on this publication.

We are particularly keen to know which parts of the *House in Review* you find most useful and whether you have any suggestions for improvement. Please email your comments to stephen.frappell@parliament.nsw.gov.au.

All responses will be kept strictly confidential.



David Blunt
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